



DONALD L. WOLFE, Director

COUNTY OF LOS ANGELES

DEPARTMENT OF PUBLIC WORKS

"To Enrich Lives Through Effective and Caring Service"

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ALHAMBRA, CALIFORNIA 91802-1460

August 11, 2005

IN REPLY PLEASE
REFER TO FILE: **PD-4**

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, CA 90012

Dear Supervisors:

**PROJECT NO. 286—LOW-FLOW DIVERSION
CITY OF MANHATTAN BEACH-LOS ANGELES COUNTY FLOOD CONTROL
DISTRICT COOPERATIVE AGREEMENT
SUPERVISORIAL DISTRICT 4
3 VOTES**

**IT IS RECOMMENDED THAT YOUR BOARD, ACTING AS THE GOVERNING BODY
OF THE LOS ANGELES COUNTY FLOOD CONTROL DISTRICT:**

1. Find that Project No. 286 to construct a low-flow diversion system for the existing storm drain is exempt from the provisions of the California Environmental Quality Act (CEQA).
2. Approve and instruct the Chair of the Board to sign the cooperative Agreement with the City of Manhattan Beach for the project. The Agreement provides for the Los Angeles County Flood Control District (District) to perform the preliminary engineering and administer the construction of the project. The Agreement further provides for the City to contribute a fixed amount of \$75,000 toward the cost of the project and for the District to finance the remaining cost in excess of the City's contribution. The total project cost is currently estimated to be \$880,000.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

Public Works, acting on behalf of the District, and the City of Manhattan Beach propose to construct a low-flow diversion for the existing storm drain, which is entirely within the City. The low-flow diversion system will divert urban runoff during dry weather between April 1 and October 31 of each year from the storm drain to the sanitary sewer for treatment by the County Sanitation Districts of Los Angeles County.

Your Board's approval of the enclosed Agreement is necessary for the delegation of responsibilities and the cooperative financing of the project. Section 17 of the Los Angeles County Flood Control Act provides that the Board of Supervisors of District has the full power and authority to cooperate with and to act in conjunction with any public corporation for the purposes of construction, operation, and maintenance of any work for the controlling of flood or storm waters of the District.

Implementation of Strategic Plan Goals

This action is consistent with the County Strategic Plan Goal of Service Excellence since it will enhance water quality at a beach within the County.

FISCAL IMPACT/FINANCING

The total project cost is currently estimated to be \$880,000 with the City's share being \$75,000 and the District's share being \$805,000. Funding for this project is included in the Fiscal Year 2005-06 Flood Fund Budget. There is no impact to the County General Fund.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

The Agreement provides for the District to perform the preliminary engineering and administer the construction of this project. The Agreement further provides for the City to contribute \$75,000 toward the construction cost of the project with the District to finance the remaining cost in excess of the City's contribution.

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ENVIRONMENTAL DOCUMENTATION

The CEQA requires public agency decision makers to document and consider the environmental implications of their actions. The proposed project is categorically exempt pursuant to Class 1 (e), (i), and (u) of the Environmental Reporting Procedures and Guidelines adopted by your Board on November 17, 1987, and Section 15301 of the State CEQA Guidelines.

Upon approval of the exemption by your Board, a \$25 handling fee will be paid to the County Clerk for filing a Notice of Exemption in accordance with the requirements of Section 21152(a) of the California Public Resources Code.

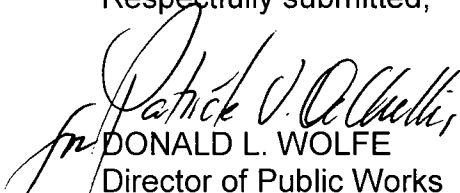
IMPACT ON CURRENT SERVICES (OR PROJECTS)

This project will not have a significant impact on current flood control services or projects currently planned. Upon completion of the project, the District will be responsible for future operation, maintenance, and repair of the low-flow diversion system.

CONCLUSION

Enclosed are three originals of the Agreement, which have been executed by the City of Manhattan Beach and approved as to form by County Counsel. Upon approval, please return two fully executed originals of the Agreement along with one adopted copy of this letter to Public Works for further processing. The Agreement labeled "COUNTY ORIGINAL" is to be retained for your files.

Respectfully submitted,


DONALD L. WOLFE
Director of Public Works

EK:pr

C060140

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Enc.

cc: Chief Administrative Office, County Counsel

A G R E E M E N T

THIS AGREEMENT, made and entered into by and between the CITY OF MANHATTAN BEACH, a municipal corporation in the County of Los Angeles, hereinafter referred to as "CITY," and the LOS ANGELES COUNTY FLOOD CONTROL DISTRICT, a body corporate and politic, hereinafter referred to as "DISTRICT":

W I T N E S S E T H

WHEREAS, DISTRICT is a political entity separate and distinct from the County of Los Angeles "COUNTY," and is governed by COUNTY'S Board of Supervisors, pursuant to Section 3 of the Los Angeles County Flood Control Act; and

WHEREAS, pursuant to Section 56-3/4 of COUNTY Charter, DISTRICT'S functions are performed by COUNTY'S Department of Public Works; and

WHEREAS, existing storm drain Project No. 286, a public facility owned and maintained by DISTRICT, hereinafter referred to as "DRAIN," collects and conveys runoff from CITY streets to Santa Monica Bay; and

WHEREAS, DISTRICT and CITY desire to construct a low-flow diversion system for DRAIN to divert dry weather street runoff to the County Sanitation Districts of Los Angeles County, hereinafter referred to as "PROJECT"; and

WHEREAS, PROJECT is part of an effort to meet the requirements of the Santa Monica Bay Beaches Dry Weather Bacterial Total Maximum Daily Loads; and

WHEREAS, PROJECT is entirely within the jurisdictional limits of CITY; and

WHEREAS, DISTRICT is willing to perform and finance PRELIMINARY ENGINEERING, CONSTRUCTION ADMINISTRATION, and RIGHT-OF-WAY ACQUISITION; and

WHEREAS, CITY is willing to contribute Seventy-five Thousand and 00/100 Dollars (\$75,000.00) toward the construction of PROJECT; and

WHEREAS, DISTRICT is willing to finance CONSTRUCTION CONTRACT COST of PROJECT, currently estimated to be Six Hundred Fifty Thousand and 00/100 Dollars (\$650,000.00), in excess of CITY contribution; and

WHEREAS, DISTRICT is willing to accept CITY contribution in the manner stated herein.

NOW, THEREFORE, in consideration of the mutual benefits to be derived by CITY and DISTRICT hereunder, it is hereby agreed as follows:

(1) DEFINITIONS

- a. PRELIMINARY ENGINEERING, as referred to in this AGREEMENT, shall consist of environmental documentation; design survey; soils report; preparation of plans, specifications, and cost estimates; right-of-way certification; utility engineering; and all other necessary work prior to advertising of PROJECT for construction bids.
- b. CONSTRUCTION CONTRACT COST, as referred to in this AGREEMENT, shall consist of all payments to the contractor hired by DISTRICT to construct PROJECT, or to utility owners who have prior rights over CITY if relocations are required for construction of PROJECT, or to the County Sanitation Districts of Los Angeles County for connection and surcharge fees related to PROJECT.
- c. CONSTRUCTION ADMINISTRATION, as referred to in this AGREEMENT, shall consist of advertising PROJECT for construction bids, construction contract administration, construction inspection, materials testing, construction survey, changes and modification of plans and specifications for PROJECT necessitated by unforeseen or unforeseeable field conditions encountered during construction of PROJECT, and all other necessary work after advertising of PROJECT for construction bids to cause PROJECT to be constructed in accordance with said plans and specifications approved by DISTRICT.
- d. RIGHT-OF-WAY ACQUISITION, as referred to in this AGREEMENT, shall consist of investigation and preparation of search maps for right-of-way identification; property appraisals; title reports; preparation of legal descriptions; acquisition of any parcel of land and easements; including negotiations, condemnation activities, and escrow costs; clearing any improvements within right of way; obtaining permits to enter other property; incidental and litigation; expense and all other work necessary to acquire right of way for construction and maintenance of PROJECT.

(2) CITY AGREES TO:

- a. Seek community support for PROJECT, at no cost to DISTRICT.
- b. Review and approve the final plans and specifications for PROJECT, at no cost to DISTRICT.

- c. Assist DISTRICT in obtaining Coastal Development Permit for PROJECT, at no cost to DISTRICT.
- d. Authorize City Engineer to approve PROJECT within fifteen (15) calendar days after receiving the signed plans and specifications for PROJECT from DISTRICT.
- e. Concur with DISTRICT'S environmental finding that this project qualifies for a Categorical Exemption pursuant to Section 15301 of the California Environmental Quality Act.
- f. Contribute Seventy-five Thousand and 00/100 Dollars (\$75,000.00) towards the construction of PROJECT, upon full execution of this AGREEMENT and invoicing by DISTRICT.
- g. Grant DISTRICT, at no cost to DISTRICT or COUNTY, any and all temporary right of way that may be necessary for construction, operation, and maintenance of PROJECT including right of way necessary for relocation of CITY-owned utilities
- h. Issue all CITY permits required for PROJECT on a no-fee basis.
- i. Promptly pay the invoice described in (3) d below. In the event CITY fails to pay the invoice in full thirty (30) days after it is due, CITY shall pay DISTRICT interest on the balance from the due date until paid in full, at the rate of seven percent (7%) per annum.
- j. Indemnify, defend, and save harmless DISTRICT and COUNTY, their boards, agents, officers, employees, and subconsultants of any tier, against any and all liability and expense arising from any negligence of CITY, its officers, employees, agents, or subconsultants of any tier in the performance of this AGREEMENT, including but not limited to, defense costs, legal fees, claims, actions, and causes of action for damages of any nature whatsoever, including, but not limited to, bodily injury, death, personal injury, or property damage.

(3) DISTRICT AGREES TO:

- a. Perform and finance PRELIMINARY ENGINEERING, RIGHT-OF-WAY ACQUISITION, and CONSTRUCTION ADMINISTRATION for PROJECT at no cost to CITY.
- b. Obtain CITY approval of final plans and specifications for PROJECT.
- c. Finance the CONSTRUCTION CONTRACT COST of PROJECT, currently estimated to be Six Hundred Fifty Thousand and 00/100 Dollars (\$650,000.00), in excess of CITY contribution.

- d. Invoice CITY for CITY'S contribution in the amount of Seventy-five Thousand and 00/100 Dollars (\$75,000.00), upon execution of this AGREEMENT.
- e. Upon completion of PROJECT, DISTRICT shall be the sole owner of PROJECT and be responsible for the future operation and maintenance of PROJECT.
- f. Indemnify, defend, and save harmless CITY, their boards, agents, officers, employees, and subconsultants of any tier, against any and all liability and expense arising from any negligence of DISTRICT or COUNTY, its officers, employees, agents, or subconsultants of any tier in the performance of this AGREEMENT, including but not limited to, defense costs, legal fees, claims, actions, and causes of action for damages of any nature whatsoever, including, but not limited to, bodily injury, death, personal injury, or property damage.
- g. To ensure that the contractor hired by DISTRICT to construct PROJECT adds CITY and its officers, employees, and agents as additional insureds on its insurance policies including comprehensive general liability and automobile policies with the minimum limits of coverage of at least \$1,000,000 per occurrence and in the annual aggregate.

(4) IT IS MUTUALLY UNDERSTOOD AND AGREED AS FOLLOWS:

- a. PROJECT shall mean the work shown on DISTRICT'S contract drawings, which will be located in the map vault at the County of Los Angeles Department of Public Works, Alhambra Headquarters.
- b. CITY, not DISTRICT or COUNTY, shall be responsible for the expense of relocation, alteration, and modification of PROJECT once installed, necessitated by future street improvements, realignments, or reconstruction.
- c. During construction of PROJECT, DISTRICT shall furnish a qualified representative to perform the functions of an inspector. CITY may also furnish, at no cost to DISTRICT or COUNTY, an inspector or other qualified representative to inspect construction of PROJECT. Said inspectors shall cooperate and consult with each other. CITY inspector shall not issue any directive to DISTRICT'S contractor, but shall work through DISTRICT'S inspector. The orders of DISTRICT'S inspector to the DISTRICT'S contractor or any other DISTRICT representative in charge of construction shall prevail and be final.

- d. In contemplation of the provisions of Section 895.2 of the Government Code of the State of California imposing certain tort liability jointly upon public entities solely by reason of such entities being parties to an agreement (as defined in Section 895 of said Code), each of the parties hereto, pursuant to the authorization contained in Sections 895.4 and 895.6 of said Code, will assume the full liability imposed upon it or any of its officers, agents, or employees by law for injury caused by any act or omission occurring in the performance of this AGREEMENT to the same extent that such liability would be imposed in the absence of Section 895.2 of said Code. To achieve the above-stated purpose, each of the parties indemnifies and holds harmless the other party for any liability, cost, or expense that may be imposed upon such other party solely by virtue of said Section 895.2. The provisions of Section 2778 of the California Civil Code are made a part hereof as if incorporated herein.
- e. It is understood and agreed that the provisions of the Assumption of Liability Agreement No. 32068 between CITY and COUNTY, adopted by the Board of Supervisors with an effective date of November 14, 1977, and currently in effect, is inapplicable to this AGREEMENT.
- f. This AGREEMENT may be modified only by the mutual written consent of both parties in the manner originally executed.
- g. Each party shall have no financial obligation to the other party under this AGREEMENT except as herein expressly provided.
- h. DISTRICT may unilaterally terminate this AGREEMENT without cause, at DISTRICT'S sole discretion at any time by giving thirty (30) days prior written notice to CITY, and in such an event, CITY shall only be entitled to a refund of unexpended CITY funds previously deposited with DISTRICT for PROJECT.
- i. This AGREEMENT was prepared by both parties and, therefore, shall not be interpreted for or against either party on the basis of who prepared it.
- j. The provisions of this AGREEMENT shall be interpreted and enforced pursuant to the laws of the State of California.

- Journal of Management Education*

CITY:

Mr. Dana Greenwood
City Engineer
City of Manhattan Beach
1400 Highland Avenue
Manhattan Beach, CA 90266-4795

DISTRICT:

Mr. Donald L. Wolfe
Acting Director of Public Works
County of Los Angeles
Department of Public Works
P.O. Box 1460
Alhambra, CA 91802-1460

[illegible]

IN WITNESS WHEREOF, the parties hereto have caused this AGREEMENT to be executed by their respective officers, duly authorized, by the CITY OF MANHATTAN BEACH on _____, 2005, and by the LOS ANGELES COUNTY FLOOD CONTROL DISTRICT on _____, 2005.

ATTEST:

VIOLET VARONA-LUKENS
Executive Officer of the
Board of Supervisors of
the County of Los Angeles

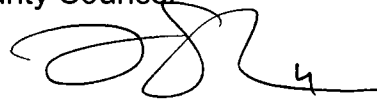
LOS ANGELES COUNTY
FLOOD CONTROL DISTRICT,
a body corporate and politic

By _____
Chair, Board of Supervisors

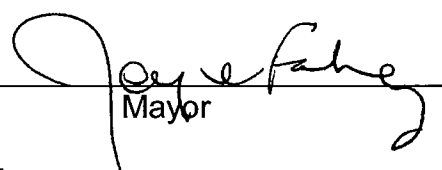
By _____
Deputy

APPROVED AS TO FORM:

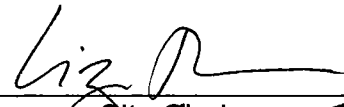
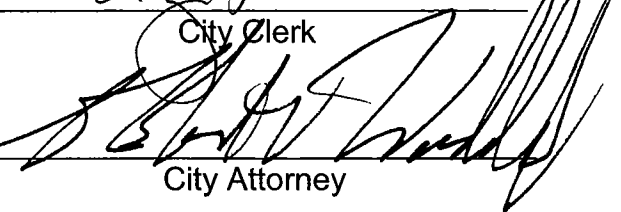
RAYMOND G. FORTNER, JR.
County Counsel

By  _____
Deputy

CITY OF MANHATTAN BEACH

By  _____
Mayor

ATTEST:

By:  _____
City Clerk
By:  _____
City Attorney